

## **2007-08 CHARTER ISSUE SUMMARY**

### **Sheriff's Issues**

#### **Section 890 Employee Representation**

**Issue subject:** Should the charter be amended with the intent to establish the independence of the Office of the Sheriff and grant the Sheriff the authority for collective bargaining.

**Issue raised by:** In a letter to the Charter Review Commission, the Sheriff's Office argued for charter amendments that would vest more authority in the Sheriff's Office (May 21, 2007). The Sheriff's Blue Ribbon Panel (BRP) issued a report to Council on recommended that the charter be amended to grant the Sheriff authority for bargaining working conditions (Reports issued September 11, 2006 and January 28, 2008). Sheriff's Office Operational Master Plan Committee, represented by Bob Cowan, Director of the Executive Office of Management and Budget, and Sheriff Rahr, endorsed Sheriff's Office control over management rights issues, including negotiating pay and benefits, and control over staff appointments (June 19, 2007 letter to the CRC). On February 25, 2008, the Council voted to accept the Sheriff's Office Operational Master Plan.

#### **Sheriff's Office**

Sheriff Rahr has argued that being subject to the policies of Executive personnel is untenable for the Sheriff's Office. Her recommendations include amending the charter as follows:

The amendments that the Sheriff proposed have the following objectives:

1. Establish the King County Sheriff as the "chief peace officer of the county."
2. Designate the King County Sheriff's Office as separate from the executive branch.
3. Eliminate reference to the Department of Public Safety, replacing it with "Sheriff's Office," and designate the office neither as an entity under the executive branch nor as required to use the administrative offices of the executive departments.
4. Reestablish the Civil Service Commission to increase the effectiveness of human resource functions in the Sheriff's Office.
5. Authorize the Sheriff's Office to negotiate working conditions of labor contracts.

#### **Positions**

While the Sheriff made a number of recommendations for changes to the charter, the issue of collective bargaining authority was the issue on which the subcommittee focused the majority of its deliberations.

#### **Non-collective bargaining issues**

**The Executive's position:** The Executive Office opposed each of the Sheriff's proposed amendments. Some of the Executive's major objections were:

- Designating the executive as the Chief Peace Officer is based on substantive reasons, including the duty and responsibility to convene inquests in cases involving police or corrections personnel and emergency declarations requiring executive order.

- Before the county charter was established, no centralized personnel system existed for the elected offices (assessor, auditor, clerk, coroner, prosecuting attorney, sheriff and treasurer) or for the three elected commissioners. Subjective factors in hiring, termination, classification, and compensation were the norm, resulting in inequities, unfairness, service inconsistencies, and costly office administration.
- The present Career Service personnel system came out of the charter. Moving agencies from executive departments to independent elected agencies allows for the return to separate practices for each elected office, a potential that could have dire consequences in today's workplace.

**Collective bargaining issues:** The Sheriff's proposal to assume authority to bargain labor contracts was the most extensively discussed and debated issue before the RG Subcommittee. The subcommittee heard presentations and/or reviewed materials submitted by Sheriff Rahr, the Sheriff's Blue Ribbon Panel, representatives of labor, representatives of Human Resources and the Executive Office.

**Sheriff's Position:** The Sheriff proposed amendments to the charter that would authorize the Sheriff's Office to negotiate and manage contracts with its employees. She argued that without a meaningful role in the final agreements, she is unable to implement the reform initiatives recommended by the Blue Ribbon Panel. More generally, she described as untenable her efforts to manage her workforce and establish greater accountability, professionalism and transparency.

**Executive's Positions:** Achieving the Sheriff's goals at the bargaining table is the Executive's priority. The standard process in preparation for bargaining that the Executive staff undergoes is to consult with the client department to ascertain its goals and priorities. In this process, overall countywide issues are identified and the client agency (Sheriff's Office) operational objectives become the negotiation priorities for the Executive. Regarding issues of staffing and contract administration, Executive staff has worked effectively with Sheriff's Office leadership, past and present.

**BRP position:** On January 28, 2008, the Sheriff's BRP report made two recommendations directed to the CRC:

1. Forward to Council a recommendation to amend the charter to give the Sheriff the authority and responsibility to negotiate and manage working conditions with labor organizations representing Sheriff's Office employees.
2. Forward to Council a recommendation to amend the charter so the King County Office of Citizen Complaints-Ombudsman would no longer have oversight responsibility for the Sheriff's Office. The BRP argued that the new Office of Law Enforcement Oversight, as mandated in Ordinance 15611, would perform the functions of the Office of Citizen Complaints-Ombudsman, provided labor negotiations allowed for the implementation of the ordinance.

**County Council's position:**

The County Council voted to accept the King County Sheriff's Office Operational Master Plan (OMP), which included the following recommendation:

The Sheriff should be granted the statutory authority through the King County Charter to negotiate labor agreements with all King County Sheriff's Office labor units for staff groups exclusively employed by the Sheriff. . . .

. . . The Sheriff should have the authority to negotiate management rights for all labor agreements. (OMP, October 2007)

When asked if this vote to accept the Sheriff's OMP was tantamount to County Council's endorsement of the Sheriff's position on the issue of bargaining authority, Council staff reiterated that the Council voted to "accept" the OMP.

**Other positions:**

Gary Locke wrote a letter to the CRC supporting an amendment that would give the Sheriff authority over labor negotiations on working conditions.

**Summary of proposed amendments to the charter:**

*Section 890*

The Commission recommends an amendment to the Charter that would require the Council to enact an ordinance providing for collective bargaining and the "effective participation in [collective] bargaining by those separately elected officials who head department or agencies that are subject to this charter" (currently the Assessor and Sheriff). The current Charter authorizes a single bargaining agent—the Executive—to negotiate county labor contracts.

The Commission focused its more intense deliberations only on one of the five of the Sheriff's proposals. While the Commission recognized all of the Sheriff's concerns as important, it chose to set aside action that might lead to increasing the fragmentation of county government. King County became a charter county specifically to move the county away from a fractional structure. Taking actions—as proposed by the Sheriff—that would effectively establish the Sheriff's Office as a separate governmental entity apart, either from the legislature or from the executive, would move the county away from the free holders' vision for King County government.

**Suggested charter revisions:**

**Section 890. Employee Representation.** The county council shall enact an ordinance providing for collective bargaining by the county with county employees covered by the personnel system. If an ordinance providing for collective bargaining is enacted, it shall not be subject to the veto power of the county executive; and it shall designate the county executive as the bargaining agent of the county. Any such ordinance shall provide for the effective participation in bargaining by those separately elected officials who head departments or agencies that are subject to this charter. Any agreement reached as a result of negotiations by the county bargaining agent with county employees shall not have the force of law unless enacted by ordinance.

**Suggested ordinance revisions:**

**KCC 2.16.035**

C. The duties of the human resources management division shall include the following:

1. Developing and administering training and organizational development programs, including centralized employee and supervisory training and other employee development programs;
2. Developing proposed and administering adopted policies and procedures for employment (recruitment, examination and selection), classification and compensation, and salary administration;

3. Developing proposed and administering adopted human resources policy;
4. Providing technical and human resources information services support;
5. Developing and managing insured and noninsured benefits programs, including proposing policy recommendations, negotiating benefits plan designs with unions, preparing legally mandated communications materials and providing employee assistance and other work and family programs;
6. Developing and administering diversity management and employee relations programs, including affirmative action plan development and administration, management and supervisory diversity training and conflict resolution training;
7. Developing and administering workplace safety programs, including inspection of work sites and dissemination of safety information to employees to promote workplace safety;
8. Administering the county's self-funded industrial insurance/worker's compensation program, as authorized by Title 51 RCW;
9. Consulting with and representing county agencies in the collective bargaining process as required by chapter 41.56 RCW;
10. Consulting with and representing county agencies in labor arbitrations, appeals and hearings including those in chapter 41.56 RCW and required by K.C.C. Title 3;
11. Administering labor contracts and providing consultation to county agencies regarding the terms and implementation of negotiated labor agreements;
12. Advising the executive and council on overall county labor and employee policies;
13. Providing labor relations training for county agencies, the executive, the council and others;
14. Overseeing the county's unemployment compensation program;
15. Developing and maintaining databases of information relevant to the collective bargaining process; and
16. Collecting and reporting to the office of management and budget on a quarterly basis information on the numbers of filled and vacant full-time equivalent and term-limited temporary positions and the number of emergency employees for each appropriation unit.

**KCC 3.16.020 Powers.**

The bargaining agent is authorized on behalf of King County to meet, confer and negotiate with bargaining representatives of the public employees of King County for the purpose of collective bargaining as contemplated by chapter 41.56 RCW and Section 890 of the King County Charter, and to timely recommend to the King County council proposed wages, hours, and employee benefits and other conditions of county employment for the purposes of county budgets and such collective bargaining agreement or agreements as may be required and authorized by ordinance. The bargaining agent shall not negotiate new collective bargaining agreements prior to preparing for bargaining and conferring with the labor policy committee as required in K.C.C. 3.16.012, 3.16.025 and 3.16.050. The bargaining agent shall additionally prepare for bargaining concerning departments headed by elected officials in accordance with KCC 3.16.025.

**KCC 3.16.025 General provisions.**

- A. The bargaining agent shall establish and conduct a process to prepare for negotiations that performs at least the following functions:
1. The bargaining agent should continue to use collaborative or interest-based bargaining where both parties agree, and this chapter shall not be construed to restrict or inhibit such bargaining;

2. The bargaining agent shall cause to be developed and maintained a database of information within King County government on wages, hours, employee benefits, vacation and other leave, job classifications and substantial and factual information to provide knowledge of working conditions necessary to conduct effective negotiations. Such information shall be made available to the bargaining representatives to the extent provided by RCW 41.56.030(4), Public Employees' Collective Bargaining law of the state of Washington, as set forth by the collaborative process identified in King County council Motion 9182; and
  3. The policy committee and implementation committee shall each confer with the bargaining agent to develop necessary guidelines for the implementation of this section, consistent with this chapter and King County council Motion 9182.
  4. Prior to negotiating collective bargaining agreements with employees in the departments headed by elected officials, the bargaining agent shall consult with the elected official or his or her designee regarding bargaining objectives and in crafting proposed bargaining agreement language. The bargaining agent shall give due consideration to the elected officials objectives during the negotiation process. Objectives may include management ability to efficiently assign work and deploy the work force and to efficiently hire, promote and discipline employees. The bargaining agent shall also give due consideration to the short and long term fiscal impact of achieving these objectives. In the event that the bargaining agent concludes that the cost of achieving these objectives outweighs the benefits or for any other reason chooses not to pursue an elected official's bargaining objective, the bargaining agent shall provide the elected official with a written analysis supporting this decision.
- B. The bargaining agent shall be the sole negotiator for King County government and shall bargain in good faith as provided by law. The bargaining agent shall commence and complete collective bargaining negotiations in a timely manner and in accordance with the overall principles and intent of this chapter.

### **Recommendation:**

Amend Section 890 to make explicit the requirement for collective bargaining that provides for the effective participation of separately elected officials, as set forth in county ordinance, revised as recommended above. In making changes in the charter or by ordinance, Council should consider the recommendations in the Blue Ribbon Panel Report and subsequent Progress Report. The Commission agrees that there is a need to improve the current system and recommends that the Council augment the Commission's information with the information and recommendations of the Blue Ribbon Panel, in order to create a more functional and responsive County government.

### **Reference documents:**

- Briefing Paper – King County Sheriff's Role in Collective Bargaining, CRC staff, January 7, 2008
- Letter from Gary Locke, January 4, 2008.
- Report of the King County Sheriff's Blue Ribbon Panel, September 11, 2006
- Progress Report of the King County Sheriff's Blue Ribbon Panel, January 28, 2008.
- King County Sheriff's Office correspondence:
  - Letter providing additional details as requested by the Regional Governance Subcommittee, February 22, 2008
  - Letter responding to Regional Governance Subcommittee request for clarification, January 21, 2008
  - Letter providing additional information about the nature of the problems that changes to the charter would address, February 22, 2008
- Home Rule Charters: Sheriff and Collective Bargaining, Memorandum by Bryan Glynn, March 17, 2008

- Letter to County Council from the Regional Governance Subcommittee, is in response to Council's March 10, 2008 letter to the Charter Review Commission (CRC), March 26, 2008

**Instructions for submitting charter recommendation to Council:** Recommend to Council that it submit to King County voters in the November 2008 general election an initiative to amend the charter as indicated. If the initiative is passed, County Council should make revisions to King County Code that will facilitate implementation of the charter changes.



## King County

### Metropolitan King County Council

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March 10, 2008

The Honorable Mike Lowry  
The Honorable Lois North  
King County Charter Review Commission  
Co-Chairs, Charter Review Commission  
Office of the King County Executive  
701 Fifth Avenue  
Suite 3210  
Seattle, WA 98104

Dear Co-Chairs Lowry and North:

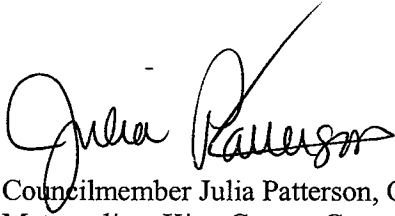
This letter is in response to a Charter Review Commission status briefing that was presented in the Council's Committee of the Whole [COW] on Monday, March 4<sup>th</sup>. It is our understanding that the Regional Governance Subcommittee has recommended a change to Charter Section 890, Employee Representation in response to issues raised by the Sheriff regarding her request for a charter change that would give her authority to negotiate contract working conditions as well as the administration of those working conditions. The following proposed language change was highlighted for the Council: "any such ordinance shall provide for the effective participation in bargaining by those separately elected officials who head departments or agencies that are subject to this charter." [emphasis added] We are concerned that this language is vague and needs greater definition from the Commission should it choose to act on this proposed charter amendment. To that end we are respectfully requesting that if the Commission decides to support this proposal, greater clarity be provided regarding the meaning of "effective participation".

Also, at the COW briefing several members raised questions about the proposed amendment in light of the significant input received both by the Council and Commission that recommends a charter amendment which would allow the Sheriff be to bargain working conditions. We specifically refer to the recommendations of the Sheriff's Blue Ribbon Panel and other knowledgeable county officials and organizations.

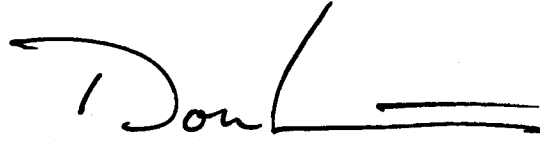
Should the Commission support the Subcommittee's proposed charter amendment language, rather than the recommendations of these expert groups and individuals, we respectfully request that you provide a detailed, written review regarding the Commission's level of analysis and consideration of those recommendations.

Thank you for taking our concerns into consideration. We look forward to hearing from you at your earliest opportunity.

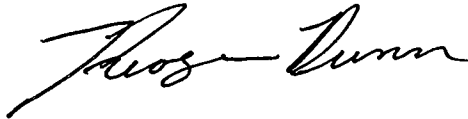
Sincerely,



Councilmember Julia Patterson, Chair  
Metropolitan King County Council



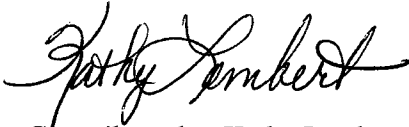
Councilmember Dow Constantine, Chair  
Metropolitan King County Committee of the Whole



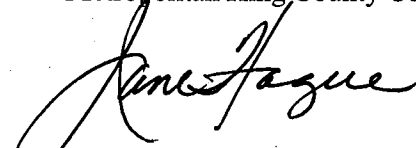
Councilmember Reagan Dunn  
Metropolitan King County Council District 9



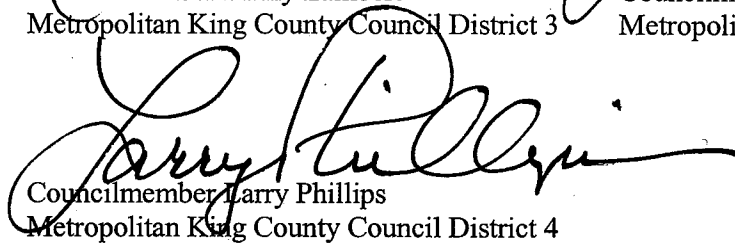
Councilmember Bob Ferguson  
Metropolitan King County Council District 1



Councilmember Kathy Lambert  
Metropolitan King County Council District 3



Councilmember Jane Hague  
Metropolitan King County Council District 6



Councilmember Larry Phillips  
Metropolitan King County Council District 4

Cc: Charter Review Commissioners  
Ross Baker, Chief of Staff  
Rebecca Cusack, Council liaison to the Charter Review Commission  
Nick Wagner, Co-Council liaison to the Charter Review Commission  
Jim Brewer, Legal Counsel  
Mark Yango, Charter Review Commission Co-coordinator  
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# King County

**Ron Sims**

King County Executive

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March 26, 2008

Metropolitan King County Council

516 Third Avenue, Room 1200

Seattle, WA 98104-3272

Dear Councilmembers:

This is in response to your March 10, 2008 letter to the Charter Review Commission (CRC) regarding our work on the King County Sheriff's request for a charter amendment giving the Sheriff charter authority to negotiate and administer the working conditions in labor contracts for Sheriff's Office employees.

The CRC's Regional Governance Subcommittee has recommended to the full Commission that it include as one of its proposed charter amendments language which would authorize and direct the King County Council to adopt an ordinance directing the King County Executive, as the designated sole bargaining agent for the county, to:

**“...provide for the effective participation in bargaining by those separately elected officials who head departments or agencies that are subject to this charter.”**

Should the CRC adopt the subcommittee's recommendation, you asked that the CRC provide the following: 1) clarification of the term “effective participation” in bargaining; and 2) a detailed written explanation of the basis for the CRC's decision not to recommend the specific charter changes sought by the Sheriff and recommended by the Sheriff's Blue Ribbon Panel. On March 25, 2008, the CRC voted to adopt the Regional Governance Subcommittee's recommendation. We are responding to your request with this letter, along with the enclosed draft ordinance and an enclosed memo, which summarizes how the other five Washington counties' home rule charters treat sheriff collective

We respect both the incumbent Sheriff and the members of the Sheriff's Blue Ribbon Panel. Like the Blue Ribbon Panel, the CRC is composed of intelligent and public spirited citizens, who bring a wide array of experience to their volunteer service on the Commission. Unlike the Blue Ribbon Panel, which is charged with investigating the operations and practices of a single agency of government and making recommendations for improvements, the CRC must conduct a systematic review of the overall effectiveness of King County's charter which provides structure for a large multi-purpose government.

The charter was approved by King County voters in the late 1960s to address serious problems in the management, financial practices and governance of a large urbanizing county. That charter, which most of you acknowledge has served King public very well over the past forty years, is an instrument which carefully distributes powers and duties between separate executive and legislative branches, vesting in each the powers sufficient to provide a check on the potential excesses or abuses of the other.

Among the most important governing powers assigned to the executive and legislative branches are budgeting and collective bargaining. The original adopted charter gives the executive the duty to prepare a proposed balanced budget each year and to present it to the County Council which is empowered to approve, with or without modifications, the annual budget. Preparing and adopting a county budget involves balancing the competing needs for parks, police, courts, prosecution, public defense and mental health services just to name a few. The charter also gives the executive the sole authority to bargain union contracts with county employees, but reserved for the council the power to approve or reject negotiated contracts.

We cannot over-state the importance that effective and coherent labor negotiations have in maintaining a balance in the county's broad range of services and in protecting the county's fiscal integrity. Eight-three percent of the Sheriff's nearly \$132 million adopted budget is for wages and benefits.

Everyone who has ever been involved in collective bargaining knows that a bargained union contract is a package of compromises in which management and employees, acting through their collective bargaining representatives, strike an agreement on monetary remuneration (wages and benefits) for a set of working conditions (shifts, hours, leave, work site amenities and safety). In short, county management pays, with the public's money, for the services of county workers provided with specified working conditions.

The trade-off between money and working conditions occurs frequently in bargaining. For example, management may wish employees in one classification to be cross trained to perform additional, arguably out of class, work so as to make the work unit more efficient and flexible. The union might see the value in this, but would likely insist that cross trained employees receive premium pay. Moreover, additional pay might also be sought in bargaining in return for employees giving up a perk such as a take home county automobile. Because police officers frequently must make split-second decisions affecting the public's and their own safety, these sorts of bargaining trade-offs may be especially accurate."

A majority of the CRC respectfully disagrees that it is appropriate to amend the charter to give the elected sheriff, or any other separately elected official subject to the charter, unrestricted and unbalanced bargaining authority over working conditions, subject only to final action by the county council. Doing so would be especially inappropriate for a general purpose local government whose chief executive officer is responsible by charter for preparing a balanced budget and who, therefore, must weigh the costs and the consistency of all union contracts.

We received enough testimony about sheriff bargaining issues over the past year to be convinced that the collaboration on bargaining between the Sheriff's Office and the executive branch is currently far from satisfactory. But we also observe that no evidence was presented that there has been a historical problem with the working relationships between county executives and other separately elected county officials who are subject to the charter provisions on collective bargaining.

The kind of charter change proposed by the Sheriff and the Sheriff's Blue Ribbon Panel, we believe, would alter a deliberate and well reasoned balance of powers and, ultimately, threaten the fiscal integrity of King County at a high cost to the public. We believe an ordinance, like the draft enclosed, articulating an executive's duty to give due consideration to the management needs not only of sheriffs but also of other separately elected officials is the appropriate way to deal with a problem which may be more transitory in nature than structural and systemic.

The draft ordinance language also requires that an executive explain in writing if he or she concludes the benefits of securing changes in working conditions sought by a separately elected official are outweighed by costs. Such a requirement would help hold executives accountable for their bargaining decisions in the event of disagreements with separately elected officials. In brief, we believe the kind of language in the enclosed draft ordinance is a better way of ensuring that elected county executives take seriously their responsibility to other elected officials without sacrificing accountability for fiscal responsibility embodied in the current charter.

Finally, we note for the record that none of the other five home rule charters (Pierce, Snohomish, Whatcom, San Juan and Clallam) has language giving its separately elected sheriff or any other separately elected official charter authority to conduct collective bargaining. To the contrary, those charters assign responsibility for county personnel systems to their elected executive or to their appointed administrators. Most of these other charters go even further and make their elected sheriff agency part of the executive branch, although the Pierce County Charter explicitly reserves day-to-day operations of the agency to the sheriff. (See enclosed memorandum dated March 17, 2008.)

We appreciate your invitation to provide supplemental information and we look forward to discussing this issue and other charter issues with you when we present our final report in May.

Sincerely,



Mike Lowry  
Co-Chair  
2007-2008 Charter Review Commission



Lois North  
Co-Chair  
2007-0088 Charter Review Commission

Enclosures:     Draft ordinance  
                     Memorandum re: Home Rule Charters – Sheriff and Collective Bargaining

Cc:                 King County Sheriff Sue Rahr